IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.6251 OF 2000

Vijaysingh Balusingh Rajput)
Age Adult, Occup.: Ex-Employee of)
Respondent)
Residing at MIG/20-543, Gokhale Nagar)
Pune 16.).. PETITIONER

VERSUS

1) The Administrative Executive Officer)
Zilla Parishad, Pune.)

2) State of Maharashtra).. RESPONDENTS

Mr.A.M. Joshi for the Petitioner.

Mr.N.P. Deshpande for Respondent No.1.

Mr.S.R. Nargolkar, Assistant Government Pleader,
for Respondent No.2.

**CORAM: V.G. PALSHIKAR AND
SMT.NISHITA MHATRE, JJ.**

DATED: 17TH FEBRUARY 2005

ORAL JUDGMENT : (PER PALSHIKAR, J.)

. By this Petition, filed after five years of the final order of Disciplinary Authority and Appellate Authority, the Petitioner is seeking quashing of the punishment on the ground that the punishment is based or the finding of the guilt is based on no evidence and, therefore, this Court should interfere.

2. Perusal of the impugned orders and submissions

made clearly disclose that each contention raised by the Petitioner was appropriately decided by the Appellate and the Revisional Authority. Repeatedly allegations are made of violation of principles of natural justice, but no where it is pointed out how principles of natural justice are violated and the violation has caused him substantial injury. Copies of certain documents which were supplied to the Petitioner were lost by him and, therefore, he claimed fresh supply of copies. That copies of documents to be used against the Petitioner were liable to be given to the Petitioner in accordance with the principles of natural justice is undisputable and factually it has been done. Therefore, the principles of natural justice have been obeyed and copies were already given to the Petitioner. Subsequent loss, unless proved to be injurious, cannot be held sufficient to come to the conclusion of violation of principles of natural justice.

3. It is then contended that the punishment is severely disproportionate as the allegations are of temporary misappropriation of fund for a short period and certain corrections made in the service record for which removal from service is grossly severe punishment. Reliance is placed on judgments of the Supreme Court of India. In the case of *Union of India and others* vs. *Giriraj Sharma*, **1994 Supp. (3) SCC 755** and *S.K.Giri* vs.

Home Secretary, Ministry of Home Affairs and others, **1995 Supp. (3) SCC 519**, the punishment was held disproportionate because the delinquent had overstayed his leave. In such action there is no criminality involved and, therefore, the punishment was considered disproportionate. Apart from this factual aspect, the Supreme Court of India has clearly laid down in *State Bank of India and others* vs. *Samarendra Kishore Endow and another*, reported in **(1994) 2 SCC 537**, that the High Court does not have equitable jurisdiction under Article 226 which the Supreme Court in under Article 136, does. It was held by the Supreme Court of India that while the Supreme Court can interfere with the punishment imposed in a departmental enquiry, there is no corresponding power or jurisdiction with the High Court for exercising such power or jurisdiction. As held by the Supreme Court of India, therefore, the High Court exercising powers under Article 226 of the Constitution of India cannot interfere with the punishment awarded. That being the position in law, we see no reason to interfere in this case. The Petition is, therefore, dismissed. Rule discharged.

(V.G.PALSHIKAR, J.)

(SMT.NISHITA MHATRE, J.)